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CONTROL BOARD

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April 2, 2002

John H. Robertus
San Diego Regional Water Quality Control Board
9174 Sky Park Court, No. 100
San Diego, CA 92123

Re: Fallbrook Pubic Utility District

Dear Mr. Robertus:

Enclosed for your ready reference, please find a copy of a Notice of Intent to Sue the Fallbrook Public Utility District for violations of the Clean Water Act. Escondido was served a similar notice and ended up in Federal Court; they settled out. Oceanside also received a similar notice and settled prior to going to court.

Specifically, the first cause of action (i) refers to reporting of non-detects that appear to be violations in our reports to your Board. In many cases, our permit detection limits are below the detection limits of current technology. As such, reporting agencies are in a difficult dilemma.

The second cause of action (ii) alleges that Fallbrook Public Utility PUD is not using laboratory tests established under 40 CFR 136. Our permit requires testing under RCRA, which is approved as state of the art by the State Board. Again, your Board has caused this dilemma.

The third cause of action, (iii) alleges that Chain of Custody documents are not included in monitoring reports. This agency will include these reports to your Board in the future.

Fallbrook will have made corrections to its reporting so as to not, hopefully, result in continuing violations and justification for court action.

The alleged violation of Section 505(a)(1) of the Act, and in particular NPDES Order No. 96-04 is a new problem. No other agencies to date were noticed for such a violation but certainly will be in the future. Our permit says there will be no sanitary sewer overflows. As all agencies know, that is humanly impossible with today's technology. However, the Clean Water Act does not prohibit SSO's. The matter is further aggravated by the fact that even though State Board regulations require reporting of spills of 1,000 gallons or more

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(Title 23, Chapter 9.2, Section 2250), the Regional Board requires reports of any spill, regardless of quantity and regardless of whether the spill occurred in State surface waters. All of the agencies under your jurisdiction are going to have a difficult time proving that there will not be continuing violations and having to answer for Clean Water violations in Federal Court. As you can see, this amounts to strict liability.

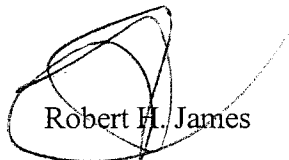
PLEASE TAKE NOTICE that Fallbrook Public Utility District requests that the Regional Board immediately calendar and set a hearing to revise Fallbrook Public Utility District's NPDES permit as follows:

1. Modify our discharge limits so that they are not below current technological detection limits.
2. Grant authority to use the current RCRA testing procedures.
3. Revise the language of the permit to remove the language prohibiting any overflow and adopt one of a standard of reasonableness. If requested, I am sure the agencies under your jurisdiction will be happy to recommend proposed language
4. In the event a civil suit is filed over this matter in Federal Court, it is requested the Regional Board intervene/interplead and/or assume the defense of this matter on behalf of this District. The Regional Board has put this District and other public agencies in a Catch-22 situation, which will become time consuming, expensive and a waste of public funds.

Thank you for your consideration.

Sincerely,

SACHSE, JAMES & LOPARDO



Robert H. James

RHJ/bsh

cc: Regional Board Members
Keith Lewinger, General Manager, FPUD
California Associations of Sanitation Agencies